



General Assembly

Amendment

February Session, 2008

LCO No. 5129

HB0565905129HDO

Offered by:

REP. CARUSO, 126th Dist.

REP. URBAN, 43rd Dist.

To: Subst. House Bill No. 5659

File No. 304

Cal. No. 171

"AN ACT CONCERNING THE SECURITY OF CHILDREN AT POLLING LOCATIONS."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 9-7b of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) The State Elections Enforcement Commission shall have the
6 following duties and powers:

7 (1) To make investigations on its own initiative or with respect to
8 statements filed with the commission by the Secretary of the State or
9 any town clerk, or upon written complaint under oath by any
10 individual, with respect to alleged violations of any provision of the
11 general statutes or regulations relating to any election or referendum,
12 any primary held pursuant to section 9-423, 9-425 or 9-464 of the 2008
13 supplement to the general statutes or any primary held pursuant to a

14 special act, and to hold hearings when the commission deems
15 necessary to investigate violations of any provisions of the general
16 statutes or regualtions relating to any such election, primary or
17 referendum, and for the purpose of such hearings the commission may
18 administer oaths, examine witnesses and receive oral and
19 documentary evidence, and shall have the power to subpoena
20 witnesses under procedural rules the commission shall adopt, to
21 compel their attendance and to require the production for examination
22 of any books and papers which the commission deems relevant to any
23 matter under investigation or in question. In connection with its
24 investigation of any alleged violation of any provision of chapter 145,
25 or of any provision of section 9-359 or section 9-359a, the commission
26 shall also have the power to subpoena any municipal clerk and to
27 require the production for examination of any absentee ballot, inner
28 and outer envelope from which any such ballot has been removed,
29 depository envelope containing any such ballot or inner or outer
30 envelope as provided in sections 9-150a and 9-150b and any other
31 record, form or document as provided in section 9-150b, in connection
32 with the election, primary or referendum to which the investigation
33 relates. In case of a refusal to comply with any subpoena issued
34 pursuant to this subsection or to testify with respect to any matter
35 upon which that person may be lawfully interrogated, the superior
36 court for the judicial district of Hartford, on application of the
37 commission, may issue an order requiring such person to comply with
38 such subpoena and to testify; failure to obey any such order of the
39 court may be punished by the court as a contempt thereof. In any
40 matter under investigation which concerns the operation or inspection
41 of or outcome recorded on any voting machine, the commission may
42 issue an order to the municipal clerk to impound such machine until
43 the investigation is completed;

44 (2) To levy a civil penalty not to exceed (A) two thousand dollars
45 per offense against any person the commission finds to be in violation
46 of any provision of chapter 145, part V of chapter 146, part I of chapter
47 147, chapter 148, section 7-9, section 9-12 of the 2008 supplement to the

48 general statutes, subsection (a) of section 9-17 of the 2008 supplement
49 to the general statutes, section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-
50 21, 9-23a, 9-23g of the 2008 supplement to the general statutes, 9-23h, 9-
51 23j to 9-23o, inclusive, 9-23r, 9-26, 9-31a, 9-32, 9-35, 9-35b, 9-35c, 9-40a,
52 9-42, 9-43, 9-50a, 9-56, 9-59 of the 2008 supplement to the general
53 statutes, 9-168d, 9-170, 9-171, 9-172, 9-232i to 9-232o, inclusive, 9-404a
54 to 9-404c, inclusive, 9-409, 9-410, 9-412, 9-436, 9-436a, 9-453e to 9-453h,
55 inclusive, 9-453k or 9-453o, or any regulation adopted pursuant to said
56 sections or chapters, (B) two thousand dollars per offense against any
57 town clerk, registrar of voters, an appointee or designee of a town clerk
58 or registrar of voters, or any other election or primary official whom
59 the commission finds to have failed to discharge a duty imposed by
60 any provision of chapter 146 or 147, or any regulation adopted under
61 said chapters, (C) two thousand dollars per offense against any person
62 the commission finds to have (i) improperly voted in any election,
63 primary or referendum, and (ii) not been legally qualified to vote in
64 such election, primary or referendum, or (D) two thousand dollars per
65 offense or twice the amount of any improper payment or contribution,
66 whichever is greater, against any person the commission finds to be in
67 violation of any provision of chapter 155 or sections 9-700 to 9-716,
68 inclusive. The commission may levy a civil penalty against any person
69 under subparagraph (A), (B), (C) or (D) of this subdivision only after
70 giving the person an opportunity to be heard at a hearing conducted in
71 accordance with sections 4-176e to 4-184, inclusive. In the case of
72 failure to pay any such penalty levied pursuant to this subsection
73 within thirty days of written notice sent by certified or registered mail
74 to such person, the superior court for the judicial district of Hartford,
75 on application of the commission, may issue an order requiring such
76 person to pay the penalty imposed and such court costs, state
77 marshal's fees and attorney's fees incurred by the commission as the
78 court may determine. Any civil penalties paid, collected or recovered
79 under subparagraph (D) of this subdivision for a violation of any
80 provision of chapter 155 applying to the office of the Treasurer shall be
81 deposited on a pro rata basis in any trust funds, as defined in section 3-
82 13c, affected by such violation;

83 (3) (A) To issue an order requiring any person the commission finds
84 to have received any contribution or payment which is prohibited by
85 any of the provisions of chapter 155, after an opportunity to be heard
86 at a hearing conducted in accordance with the provisions of sections 4-
87 176e to 4-184, inclusive, to return such contribution or payment to the
88 donor or payor, or to remit such contribution or payment to the state
89 for deposit in the General Fund, whichever is deemed necessary to
90 effectuate the purposes of chapter 155;

91 (B) To issue an order when the commission finds that an intentional
92 violation of any provision of chapter 155 has been committed, after an
93 opportunity to be heard at a hearing conducted in accordance with
94 sections 4-176e to 4-184, inclusive, which order may contain one or
95 more of the following sanctions: (i) Removal of a campaign treasurer,
96 deputy campaign treasurer or solicitor; (ii) prohibition on serving as a
97 campaign treasurer, deputy campaign treasurer or solicitor, for a
98 period not to exceed four years; and (iii) in the case of a party
99 committee or a political committee, suspension of all political
100 activities, including, but not limited to, the receipt of contributions and
101 the making of expenditures, provided the commission may not order
102 such a suspension unless the commission has previously ordered the
103 removal of the campaign treasurer and notifies the officers of the
104 committee that the commission is considering such suspension;

105 (C) To issue an order revoking any person's eligibility to be
106 appointed or serve as an election, primary or referendum official or
107 unofficial checker or in any capacity at the polls on the day of an
108 election, primary or referendum, when the commission finds such
109 person has intentionally violated any provision of the general statutes
110 or regulations relating to the conduct of an election, primary or
111 referendum, after an opportunity to be heard at a hearing conducted in
112 accordance with sections 4-176e to 4-184, inclusive;

113 (D) To issue an order to enforce the provisions of the Help America
114 Vote Act, P.L. 107-252, as amended from time to time, as the
115 commission deems appropriate;

116 (E) To issue an order following the commission's determination of
117 the right of an individual to be or remain an elector when such
118 determination is made (i) pursuant to an appeal taken to the
119 commission from a decision of the registrars of voters or board of
120 admission of electors under section 9-31l, or (ii) following the
121 commission's investigation pursuant to subdivision (1) of this
122 subsection;

123 (4) To issue an order to a candidate committee that receives moneys
124 from the Citizens' Election Fund pursuant to sections 9-700 to 9-716,
125 inclusive, to comply with the provisions of sections 9-700 to 9-716,
126 inclusive, after an opportunity to be heard at a hearing conducted in
127 accordance with the provisions of sections 4-176e to 4-184, inclusive;

128 (5) To inspect or audit at any reasonable time and upon reasonable
129 notice the accounts or records of any campaign treasurer or principal
130 campaign treasurer, as required by chapter 155 and to audit any such
131 election, primary or referendum held within the state; provided, (A) (i)
132 not later than two months preceding the day of an election at which a
133 candidate is seeking election, the commission shall complete any audit
134 it has initiated in the absence of a complaint that involves a committee
135 of the same candidate from a previous election, and (ii) during the
136 two-month period preceding the day of an election at which a
137 candidate is seeking election, the commission shall not initiate an audit
138 in the absence of a complaint that involves a committee of the same
139 candidate from a previous election, and (B) the commission shall not
140 audit any caucus, as defined in subdivision (1) of section 9-372;

141 (6) To attempt to secure voluntary compliance, by informal methods
142 of conference, conciliation and persuasion, with any provision of
143 chapters 149, 151 to 153, inclusive, 155 and 156 or any other provision
144 of the general statutes relating to any such election, primary or
145 referendum;

146 (7) To consult with the Secretary of the State, the Chief State's
147 Attorney or the Attorney General on any matter which the commission

148 deems appropriate;

149 (8) To refer to the Chief State's Attorney evidence bearing upon
150 violation of any provision of chapters 149, 151 to 153, inclusive, 155
151 and 156 or any other provision of the general statutes pertaining to or
152 relating to any such election, primary or referendum;

153 (9) To refer to the Attorney General evidence for injunctive relief
154 and any other ancillary equitable relief in the circumstances of
155 subdivision (8) of this subsection. Nothing in this subdivision shall
156 preclude a person who claims that he is aggrieved by a violation of any
157 provision of chapter 152 or any other provision of the general statutes
158 relating to referenda from pursuing injunctive and any other ancillary
159 equitable relief directly from the Superior Court by the filing of a
160 complaint;

161 (10) To refer to the Attorney General evidence pertaining to any
162 ruling which the commission finds to be in error made by election
163 officials in connection with any election, primary or referendum. Those
164 remedies and procedures available to parties claiming to be aggrieved
165 under the provisions of sections 9-323 of the 2008 supplement to the
166 general statutes, 9-324 of the 2008 supplement to the general statutes,
167 9-328 of the 2008 supplement to the general statutes and 9-329a of the
168 2008 supplement to the general statutes shall apply to any complaint
169 brought by the Attorney General as a result of the provisions of this
170 subdivision;

171 (11) To consult with the United States Department of Justice and the
172 United States Attorney for Connecticut on any investigation pertaining
173 to a violation of this section, section 9-12 of the 2008 supplement to the
174 general statutes, subsection (a) of section 9-17 of the 2008 supplement
175 to the general statutes or section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20,
176 9-21, 9-23a, 9-23g of the 2008 supplement to the general statutes, 9-23h,
177 9-23j to 9-23o, inclusive, 9-26, 9-31a, 9-32, 9-35, 9-35b, 9-35c, 9-40a, 9-42,
178 9-43, 9-50a, 9-56 or 9-59 of the 2008 supplement to the general statutes
179 and to refer to said department and attorney evidence bearing upon

180 any such violation for prosecution under the provisions of the National
181 Voter Registration Act of 1993, P.L. 103-31, as amended from time to
182 time;

183 (12) To inspect reports filed with the Secretary of the State and with
184 town clerks pursuant to chapter 155 and refer to the Chief State's
185 Attorney evidence bearing upon any violation of law therein if such
186 violation was committed knowingly and wilfully;

187 (13) To intervene in any action brought pursuant to the provisions
188 of sections 9-323 of the 2008 supplement to the general statutes, 9-324
189 of the 2008 supplement to the general statutes, 9-328 of the 2008
190 supplement to the general statutes and 9-329a of the 2008 supplement
191 to the general statutes upon application to the court in which such
192 action is brought when in the opinion of the court it is necessary to
193 preserve evidence of possible criminal violation of the election laws;

194 (14) To adopt and publish regulations pursuant to chapter 54 to
195 carry out the provisions of section 9-7a, this section, chapter 155 and
196 sections 9-700 to 9-716, inclusive; to issue upon request and publish
197 advisory opinions in the Connecticut Law Journal upon the
198 requirements of chapter 155, and to make recommendations to the
199 General Assembly concerning suggested revisions of the election laws;

200 (15) To the extent that the Elections Enforcement Commission is
201 involved in the investigation of alleged or suspected criminal
202 violations of any provision of the general statutes pertaining to or
203 relating to any such election, primary or referendum and is engaged in
204 such investigation for the purpose of presenting evidence to the Chief
205 State's Attorney, the Elections Enforcement Commission shall be
206 deemed a law enforcement agency for purposes of subdivision (3) of
207 subsection (b) of section 1-210 of the 2008 supplement to the general
208 statutes, provided nothing in this section shall be construed to exempt
209 the Elections Enforcement Commission in any other respect from the
210 requirements of the Freedom of Information Act, as defined in section
211 1-200;

212 (16) To enter into such contractual agreements as may be necessary
213 for the discharge of its duties, within the limits of its appropriated
214 funds and in accordance with established procedures;

215 (17) To provide the Secretary of the State with notice and copies of
216 all decisions rendered by the commission in contested cases, advisory
217 opinions and declaratory judgments, at the time such decisions,
218 judgments and opinions are made or issued;

219 (18) To receive and determine complaints filed under the Help
220 America Vote Act, P.L. 107-252, as amended from time to time, by any
221 person who believes there is a violation of any provision of Title III of
222 P.L. 107-252, as amended. Any complaint filed under this subdivision
223 shall be in writing, notarized and signed and sworn by the person
224 filing the complaint. At the request of the complainant, there shall be a
225 hearing on the record, conducted in accordance with sections 4-167e to
226 4-184, inclusive. The commission shall make a final determination with
227 respect to a complaint prior to the expiration of the ninety-day period
228 beginning on the date the complaint is filed, unless the complainant
229 consents to a longer period for making such determination. If the
230 commission fails to meet the applicable deadline under this
231 subdivision with respect to a complaint, the commission shall resolve
232 the complaint within sixty days after the expiration of such ninety-day
233 period under an alternative dispute resolution procedure established
234 by the commission.

235 (b) In the case of a refusal to comply with an order of the
236 commission issued pursuant to subdivision (3) of subsection (a) of this
237 section, the superior court for the judicial district of Hartford, on
238 application of the commission, may issue a further order to comply.
239 Failure to obey such further order may be punished by the court as a
240 contempt thereof."